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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,692	02/25/2004	Daniel Jonathan Auerbach	HSJ920030241US1	3692

7590 06/22/2005
John L. Rogitz
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EXAMINER

SLAVITT, MITCHELL R

ART UNIT	PAPER NUMBER
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2651

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,692

Applicant(s)

AUERBACH ET AL.

Examiner

Mitchell R. Slavitt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 12-17 is/are allowed.
- 6) ☒ Claim(s) 7 is/are rejected.
- 7) ☒ Claim(s) 8-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The initial portion of the Specification should indicate pending application 10/787,668 with the Title of the invention. See 37 C.F.R. 1.56.

Double Patenting

2. Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, and 13 of copending Application No. 10/787,668. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 in the instant application is drawn to the apparatus corresponding to the method of using the same apparatus claimed in claims 1, 7, and 13.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 8-11 are provisionally rejected as being dependent upon claim 7 being rejected as stated above.

Allowable Subject Matter

3. Claims 1-6 and 12-17 are allowed as the prior art does not teach or suggest the applicant's invention. Independent claim 1 teaches a HDD. The distinguishing elements of the claim are: a controller determining a tilt seek distance representative of a mechanical tilt between the disk stack and head stack and undertaking at least one of: adding the tilt seek distance to a logical seek distance to determine a total seek

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distance useful for determining an estimated access time, and using the tilt seek distance to preposition a target head prior to making electrical contact with the target head.

Independent claim 12 teaches a HDD. The distinguishing elements of the claim are: a controller determining a mechanical tilt based on a difference between a current head position and a target head position and undertaking at least one of: using the difference to determine a physical seek distance useful for determining an estimated access time, and using the difference to preposition a target head prior to making electrical contact with the target head.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitchell R. Slavitt whose telephone number is (571) 272-7562. The examiner can normally be reached on M-F (6:30-4:00), 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

MS m/
5/27/05



DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600